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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,887	11/26/2003	Paul Allen Canino	A-7488.DIV	5993

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EXAMINER

ORTIZ, ANGELA Y

ART UNIT PAPER NUMBER

1732

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,887

Applicant(s)

CANINO ET AL.

Examiner

Angela Ortiz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings were received on 19 November 2004. These drawings are accepted and approved.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pausing, USP 4,844,327 in view of Sutch, USP 4,078,037.

The cited primary reference substantially teaches the basic claimed process of making a container including molding a tube pack 1 in the form of a carton, wherein the tube pack 1 is a plastics coated paper material and is provided with a plurality of wall panels 6 having multiple cut edges 7 for receiving a plurality of molded seams 8. The tube pack 1 can be generally rectangular and includes sidewalls 2, an upper portion (4,5) with a dispensing opening 9, and a lower portion or base. The tube pack 1 is folded and shaped so that the plurality of cut edges 7 at the edges of the wall panels 6 are disposed in an almost side-by-side relationship such that gaps are provided such that passageways are created, and plastic bridges or seams are injection molded into the gaps and onto the edges of the panels. Note that the seams are deemed leak-proof

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and sealing elements. See col. 7, lines 13-17; col. 6, lines 18-30, 40-57; col. 5, lines 33-57; col. 3, lines 28-50.

The cited primary reference does not teach injecting plastic to define a demarcation between the upper portion and the lower portion of the sidewall panels as claimed. Note that the location of the molded portions is generally deemed an obvious improvement in the art, and a matter of design choice by the practitioner of the method.

The added secondary reference teaches as conventional the feature of molding an improved container wherein a blank of sheet material, such as paper, is provided and plastics material is injection molded onto the blank in predetermined locations to form seams. The blank is cut to form side panel edges 7, and is further shaped and folded to form a receptacle. The blank is clamped between mold tools such that the free edges of the side panel are located in a seam-forming recess of the mold tool, and plastics is injection molded to form the desired seam. The side panels further include a peripheral stiffening or lid receiving lip molded at the top edge for providing sufficient rigidity to the container. See col. 1, lines 4-26, 34-45; col. 2, lines 15-21. Note that the injection molded lip is deemed equivalent to an injection molded line of demarcation as claimed, as such is molded along a passage disposed circumferentially around the container, and is on the upper portion of the side panel, further readable on a demarcation between an upper and lower portion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a circumferential molding to define a line of demarcation as claimed, in view of the added reference, when performing the process set forth in the

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primary reference, for providing peripheral stiffening to the container for making the container sturdy.

With respect to claims 2, 3, and 4, note that in the primary reference, the tube pack 1 may include an injection molded handle and dispensing opening, see col. 4, lines 59-60, 30-37; col. 5, lines 14-22; col. 6, lines 53-60. To so form the opening with conventional features, such as threads, would have been obvious for engaging a threaded top which can be removed by un-screwing. Note that the handle is depicted as round in figures 1-3 and 6.

With respect to claims 5-6, note that the primary reference sets forth a sealed bottom or base portion, using conventional means, including heat welding. See col. 1, lines 9-15; col. 2, lines 9-15, 46-50; claims 1 and 11.

Response to Arguments

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Note that careful reconsideration has been given to the newly drafted claims and new art, addressing the newly claimed features, has been applied. It is deemed that all objections and arguments made are addressed in the newly applied prior art rejection, and the finality of this action is proper. Additional pertinent art has also been provided to show the state of the art.

Note that the correction made regarding the description of the drawings has been entered.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USP's 3511902; 3931385; 4076790; 4217326; 6196451.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

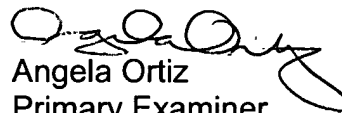
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela Ortiz whose telephone number is 571-272-1206. The examiner can normally be reached on Monday-Thursday 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571-272-1196. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Angela Ortiz
Primary Examiner
Art Unit 1732

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